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GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2005 REGULAR SESSION

SENATE BILL NO. 150

TUESDAY, FEBRUARY 22, 2005

The following bill was reported to the House from the Senate and ordered to be printed.

RECEIVED AND FILED
DATE March 18, 2005
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TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adles

AN ACT relating to financing public projects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 Section 1. KRS 58.180 is amended to read as follows:

- 2 (1) (a) As used herein, the term "public project" shall have the same meaning as
3 ascribed to such term by KRS 58.010, and the term "public project" shall
4 include, inter alia, but not by way of limitation, public facilities such as
5 sewers, sewage treatment works, water systems, streets, sidewalks and other
6 public ways, both vehicular and pedestrian, parks and recreational and sports
7 facilities, hospitals and health facilities, educational facilities, drainage and
8 reclamation projects, jails, municipal buildings, public docks, wharves and
9 port facilities, solid waste disposal facilities, pollution control systems, mass
10 commuting and transport systems, industrial parks, courthouses and other
11 public buildings, public parking and garage facilities, and other edifices,
12 projects and like things and objects intended for governmental and public
13 purposes.
- 14 (b) As used herein, the term "governmental agency" shall mean any division of
15 the Commonwealth which is a municipal corporation and political subdivision
16 of the Commonwealth of Kentucky, or to which has been delegated the right
17 to exercise part of the sovereign power of the Commonwealth.
- 18 (2) Any governmental agency may create a nonprofit corporation pursuant to the
19 provisions of KRS 273.161 to 273.390, inclusive, to act as the agency and
20 instrumentality and the constituted authority of such governmental agency in the
21 acquisition and financing of any public project which may be undertaken by such
22 governmental agency pursuant to the provisions of Kentucky law and thus
23 accomplish a public purpose of such governmental agency. Such corporation, upon
24 direction of such governmental agency, shall be authorized to issue its bonds, notes
25 or other obligations on behalf of such governmental agency for the acquisition and

1 financing of one or more public projects on behalf of such governmental agency,
 2 and may pledge for the amortization of such bonds, notes or other obligations all
 3 revenues derived from the operation of such public project or public projects,
 4 including specifically all revenues derived from the leasing of such public project or
 5 public projects directly to the governmental agency upon whose behalf and upon
 6 whose direction such bonds, notes or other obligations are issued. Provided,
 7 however, that no bonds or other obligations shall be authorized under the provisions
 8 of this chapter for the construction or acquisition of telephone, gas, or electric
 9 facilities unless such electric facilities are constructed or maintained to provide
 10 service solely to the customers of the municipal utility.

11 (3) It shall be provided in any such financing (i) that upon the retirement and discharge
 12 of the bonds, notes or other obligations issued by such corporation at the direction
 13 of and on behalf of such governmental agency, title to the public project or public
 14 projects so acquired shall vest in such governmental agency; (ii) that in the event of
 15 default with respect to such bonds, notes or other obligations, the governmental
 16 agency shall have the exclusive option to acquire the public project or public
 17 projects for the amount required to discharge such bonds, notes or other obligations,
 18 and is provided a reasonable time to exercise such option; (iii) that the issuance of
 19 such bonds, notes or other obligations shall be directed by and approved by such
 20 governmental agency not more than sixty (60) days prior to the date of issue of such
 21 obligations; and (iv) that no bonds, notes or other obligations shall be issued by
 22 such corporation for and on behalf of such governmental agency except upon
 23 express direction of such governmental agency.

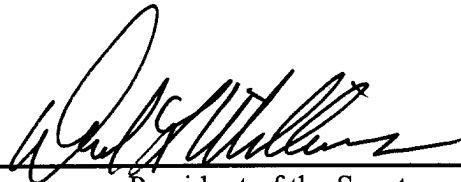
24 (4) Any governmental agency creating a corporation pursuant to this section to act for
 25 and on behalf of, and as the agency and instrumentality of, such governmental
 26 agency in the acquisition and financing of a public project or public projects shall,
 27 at all times either (i) exercise organizational control over such corporation by

1 creating the corporation pursuant to this section, and retain authority at any and all
2 times to alter or change the structure, organization, programs or activities of the
3 corporation, including the power to terminate existence of the corporation, subject
4 to any limitation on the impairment of contracts entered into by such corporation, or
5 shall (ii) exercise supervisory control over such corporation as may be deemed
6 proper by the governmental agency in the administration of the corporation's
7 activities as a constituted authority of such governmental agency, and as may be
8 required from time to time by federal law in order to qualify the corporation to issue
9 bonds, notes or other obligations on behalf of the governmental agency.

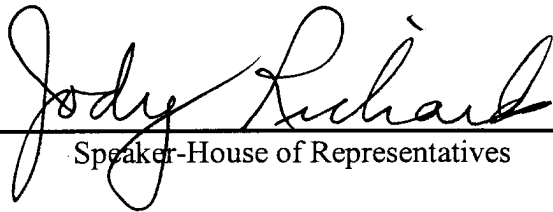
10 (5) It shall be provided, inter alia, in the articles of incorporation of any such
11 corporation and constituted authority created to act as the agency and
12 instrumentality of a governmental agency and to finance public projects for such
13 governmental agency on its behalf and thereby accomplish a public purpose of such
14 governmental agency, (i) that any net revenues of such corporation beyond those
15 necessary for retirement of indebtedness, or implementation of the public purpose
16 or purposes of the corporation and the governmental agency shall not inure to the
17 benefit of any person other than the governmental agency; (ii) that upon dissolution
18 of the corporation, title to all property owned by such corporation shall vest in the
19 governmental agency; and (iii) that the corporation shall be created and operated
20 solely and only to accomplish one or more of the public purposes of the
21 governmental agency and for the acquisition and financing of public projects for
22 and on behalf of such governmental agency.

23 (6) The governing body of such corporation shall consist solely and only of the
24 following individuals:

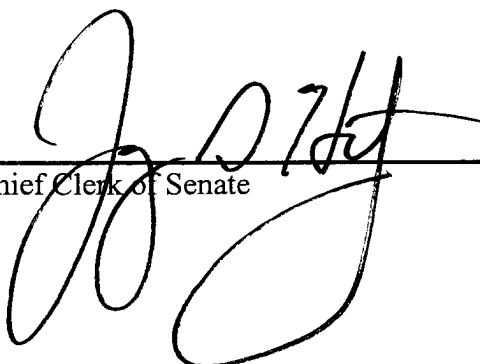
- 25 (a) Public officials of the governmental agency as ex officio members; or
- 26 (b) Persons appointed by the governmental agency or by public officials of the
27 governmental agency.



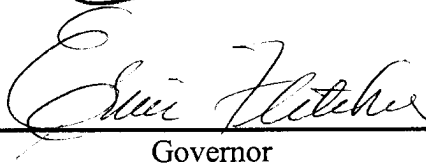
President of the Senate




Speaker-House of Representatives

Attest: 

Chief Clerk of Senate

Approved 

Governor

Date 

March 18 2005